IC 35-48-7

Chapter 7. Central Repository for Controlled Substances Data

IC 35-48-7-1

"Advisory committee" defined

Sec. 1. As used in this chapter, "advisory committee" refers to the controlled substances advisory committee established by IC 35-48-2-1.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-2

"Central repository" defined

Sec. 2. As used in this chapter, "central repository" refers to the central repository designated by the advisory committee under section 10 of this chapter.

As added by P.L.163-1994, SEC.5. Amended by P.L.107-1999, SEC.1; P.L.182-2003, SEC.5.

IC 35-48-7-3

"Dispenser" defined

Sec. 3. As used in this chapter, "dispenser" has the meaning set forth in IC 35-48-1-13. However, the term does not include the following:

(1) A Type II pharmacy (as defined in IC 25-26-13-17) operated by a hospital licensed under IC 16-21.

(2) A nurse registered or licensed under IC 25-23 or a medication aide who administers a controlled substance at the direction of a physician licensed under IC 25-22.5.

(3) A person who administers or dispenses a controlled substance ordered for a bona fide patient in a facility licensed under IC 16-28.

(4) A pharmacy licensed under IC 25-26-13 when it dispenses prescriptions ordered for bona fide enrolled patients in facilities licensed under IC 16-28.

(5) A practitioner who dispenses not more than a forty-eight (48) hour supply of a controlled substance listed in either schedule II, III, or IV as set forth in IC 35-48-3-9.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-4

"Exception report" defined

Sec. 4. As used in this chapter, "exception report" means a record of data concerning:

(1) a practitioner practicing a particular specialty or field of health care;

(2) a dispenser doing business in a particular location; or

(3) a recipient;

that indicates dispensing or receiving of controlled substances outside norms for dispensing or receiving controlled substances established by the advisory committee under this chapter.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-5

"Identification number" defined

Sec. 5. As used in this chapter, "identification number" refers to the following:

(1) The unique number contained on any of the following:

(A) A valid driver's license of a recipient or a recipient's representative issued under Indiana law or the law of any other state.

(B) A recipient's or a recipient representative's valid military identification card.

(C) A valid identification card of a recipient or a recipient's representative issued by:

(i) the bureau of motor vehicles as described in IC 9-24-16-3; or

(ii) any other state and that is similar to the identification card issued by the bureau of motor vehicles.

(D) If the recipient is an animal:

(i) the valid driver's license issued under Indiana law or the law of any other state;

(ii) the valid military identification card; or

(iii) the valid identification card issued by the bureau of motor vehicles and described in IC 9-24-16-3 or a valid identification card of similar description that is issued by any other state;

of the animal's owner.

(2) The identification number or phrase designated by the central repository.

As added by P.L.163-1994, SEC.5. Amended by P.L.204-2005, SEC.22.

IC 35-48-7-6

"Recipient" defined

Sec. 6. As used in this chapter, "recipient" means an individual for whom a controlled substance is dispensed.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-7

"Recipient representative" defined

Sec. 7. As used in this chapter, "recipient representative" means the individual to whom a controlled substance is dispensed if the recipient is either less than eighteen (18) years of age or unavailable to receive the controlled substance.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-8

Controlled substance prescription monitoring program; information; prescription forms

Sec. 8. The advisory committee shall provide for a controlled

substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the central repository the following information:

(A) The recipient's name.

(B) The recipient's or the recipient representative's identification number or the identification number or phrase designated by the central repository.

(C) The recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(2) The information required to be transmitted under this section must be transmitted not more than fifteen (15) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) an electronic device compatible with the receiving device of the central repository;

(B) a computer diskette;

(C) a magnetic tape; or

(D) a pharmacy universal claim form;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms and serially numbered prescription forms for any prescriptions written. The committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

As added by P.L.163-1994, SEC.5. Amended by P.L.107-1999, SEC.2; P.L.182-2003, SEC.6; P.L.204-2005, SEC.23.

IC 35-48-7-9

Controlled substance prescription monitoring program; costs

Sec. 9. (a) The health professions bureau or the central repository is responsible for the costs of the program, including the following costs:

(1) Telephone access charges, line charges, and switch charges for transmission of data by dispensers to the central repository.

(2) Purchase of modems and other hardware required for program participation.

(3) Software and software modifications to allow dispensers to participate in the program.

(b) A dispenser may not be penalized for failure to comply with the program if the health professions bureau or the central repository cannot secure adequate funding to implement the program and cover the costs under subsection (a).

As added by P.L.163-1994, SEC.5. Amended by P.L.107-1999, SEC.3; P.L.182-2003, SEC.7.

IC 35-48-7-10

Central repository; designation; powers and duties

Sec. 10. (a) The advisory committee shall designate a central repository for the collection of information transmitted under section 8 of this chapter.

(b) The central repository shall do the following:

(1) Create a data base for information required to be transmitted under section 8 of this chapter in the form required under rules adopted by the advisory committee, including search capability for the following:

(A) A recipient's name.

(B) A recipient's or recipient representative's identification number.

(C) A recipient's date of birth.

(D) The national drug code number of a controlled substance dispensed.

(E) The dates a controlled substance is dispensed.

(F) The quantities of a controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) A dispenser's United States Drug Enforcement Agency registration number.

(I) A prescriber's United States Drug Enforcement Agency registration number.

(J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(2) Provide the advisory committee with continuing twenty-four (24) hour a day on-line access to the data base maintained by the central repository.

(3) Secure the information collected by the central repository and the data base maintained by the central repository against access by unauthorized persons.

(4) If the relationship between the advisory committee and the

central repository is terminated by statute, provide to the advisory committee, within a reasonable time, all collected information and the data base maintained by the central repository.

(c) The advisory committee may execute a contract with a vendor designated by the advisory committee as the central repository under this section, or the advisory committee may act as the central repository under this chapter.

(d) The central repository may gather prescription data from the Medicaid retrospective drug utilization review program (DUR) established by IC 12-15-35.

(e) The advisory committee may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the central repository.

As added by P.L.163-1994, SEC.5. Amended by P.L.107-1999, SEC.4; P.L.182-2003, SEC.8.

IC 35-48-7-11

Confidentiality

Sec. 11. (a) Information received by the central repository under section 8 of this chapter is confidential.

(b) The advisory committee shall carry out a program to protect the confidentiality of the information described in subsection (a). The advisory committee may disclose the information to another person only under subsection (c), (d), or (f).

(c) The advisory committee may disclose confidential information described in subsection (a) to any person who is engaged in receiving, processing, or storing the information.

(d) The advisory committee may release confidential information described in subsection (a) to the following persons:

(1) A member of the board, the committee, or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves a controlled substance.

(3) A law enforcement officer who is:

(A) authorized by the state police department to receive information of the type requested;

(B) approved by the advisory committee to receive information of the type requested; and

(C) engaged in the investigation or prosecution of a violation

under any state or federal law that involves a controlled substance.

(e) Before the advisory committee releases confidential information under subsection (d), the applicant must demonstrate to the advisory committee that:

(1) the applicant has reason to believe that a violation under any state or federal law that involves a controlled substance has occurred; and

(2) the requested information is reasonably related to the investigation, adjudication, or prosecution of the violation described in subdivision (1).

(f) The advisory committee may release to:

(1) a member of the board, the advisory committee, or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive the type of information released; and

(B) approved by the advisory committee to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(g) The information described in subsection (f) may not be released until it has been reviewed by a member of the advisory committee who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data and until that member has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (h).

(h) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (f) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(i) The advisory committee may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering a controlled substance. Statistical reports compiled under this subsection are public records.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-12

Rules to implement chapter

Sec. 12. The advisory committee shall adopt rules under IC 4-22-2 to implement this chapter, including the following:

(1) Information collection and retrieval procedures for the central repository, including the controlled substances to be included in the program required under section 8 of this chapter.

(2) Design for the creation of the data base required under section 10 of this chapter.

(3) Requirements for the development and installation of on-line electronic access by the advisory committee to information collected by the central repository.

(4) Identification of emergency situations or other circumstances in which a practitioner may prescribe, dispense, and administer a prescription drug specified in section 8 of this chapter without a written prescription or on a form other than a form specified in section 8(4) of this chapter.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-13

Controlled substances data fund; establishment

Sec. 13. (a) The controlled substances data fund is established to fund the operation of the central repository. The fund shall be administered by the health professions bureau.

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of grants, public and private financial assistance, and sixteen percent (16%) of the controlled substances registration fees imposed under IC 35-48-3-1.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.163-1994, SEC.5. Amended by P.L.107-1999, SEC.5; P.L.182-2003, SEC.9.

IC 35-48-7-14

Violations of chapter; misdemeanor offense

Sec. 14. A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.

As added by P.L.163-1994, SEC.5.

IC 35-48-7-15 Repealed

(*Repealed by P.L.214-2001, SEC.1.)*